

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

In re:)	
)	
GERICKA RUCKER,	)	Case No. 12-44584-drd7
)	
Debtor,)	
-----)	
In re:)	
)	
TANIKA M. KEELING,	)	Case No. 11-44163-drd7
)	
Debtor,)	
-----)	
In re:)	
)	
STACY J. DIX,	)	Case No. 12-40984-drd7
)	
Debtor,)	
-----)	
In re:)	
)	
GEORGE AND ESTHER BAI,	)	Case No. 11-44271-can7
)	
Debtors,)	
-----)	
In re:)	
)	
SHAWN D. GREEVER,	)	Case No. 11-44985-abf7
)	
Debtor,)	
-----)	
In re:)	
)	
EARNEST JONES,	)	Case No. 11-44688-abf7
)	
Debtor,)	
-----)	
In re:)	
)	
LORENZO MANNING,	)	Case No. 12-42103-can7
)	
Debtor,)	
-----)	
In re:)	
)	
RACHELLE DILLARD,	)	Case No. 12-44003-can7
)	
Debtor,)	
-----)	

In re: RANDY ELLISON, Debtor,	) Case No. 13-50083-can7
In re: STEVEN M. ELLER, Debtor,	) Case No. 12-44329-can7
In re: JAMES AND AMY JACKSON, Debtors,	) Case No. 13-40151-can7
In re: PORSHA DIXON, Debtor,	) Case No. 12-44128-jwv7
In re: PRENTISS K. WILLIAMS, Debtor,	) Case No. 13-41117-drd7
In re: GENIA M. MILLER, Debtor,	) Case No. 13-41286-drd7
In re: JENNIFER J. KING, Debtor,	) Case No. 13-42877-can7
In re: JOHN M. SHERWOOD, Debtor,	) Case No. 13-42884-drd13
In re: CRYSTAL L. WILBURN, Debtor,	) Case No. 13-42494-can7

In re:)
SHERIDA MICHELE AVERETTE,) Case No. 13-43039-abf7
Debtor,)
-----)
NANCY J. GARGULA,)
UNITED STATES TRUSTEE,)
Plaintiff,)
v.) Adv. Case No.
DANITA LOUISE ODOM,)
AND)
JOSEPH DELA PASION,)
AND)
SIMPLY LIVING, LLC,)
AND)
GENESIS REALITY SOLUTIONS, LLC,)
Defendants.)

**COMPLAINT FOR MONETARY SANCTIONS AND INJUNCTIVE
RELIEF PURSUANT TO 11 U.S.C. § 110**

Plaintiff Nancy J. Gargula, United States Trustee for Region 13 (“Plaintiff”), by and through counsel, states and alleges:

Jurisdiction and Venue

1. This is an adversary proceeding in which the Plaintiff seeks sanctions and injunctive relief against Danita Louis Odom, Joseph Dela Pasion, Simply Living, LLC, and Genesis Reality Solutions, LLC (the “Defendants”), for alleged violations of 11 U.S.C. § 110 in the bankruptcy cases listed above in the Bankruptcy Court for the Western District of Missouri.

2. This is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O) over which the Court has jurisdiction pursuant to 28 U.S.C. §§ 1334(b); 157(a); and 157(b)(1), and 11 U.S.C. § 110.
3. Venue is proper pursuant to 11 U.S.C. §§ 1408 and 1409.

Parties

4. Pursuant to 28 U.S.C. 581(a)(13), the Plaintiff is the duly appointed United States Trustee for Region 13, which encompasses the Western District of Missouri. The Plaintiff has standing and files this complaint in her official capacity pursuant to 28 U.S.C. § 586 and 11 U.S.C. § 110(h)(4), (j)(1), and (l)(1).
5. The Defendants acted as a bankruptcy petition preparer as that term is defined by 11 U.S.C. § 110(a)(1) in all cases listed above, all of which were filed in the United States Bankruptcy Court for the Western District of Missouri. Furthermore, in all of the cases, the Defendants prepared documents for filing, as that phrase is defined by 11 U.S.C. § 110(a)(2).

Allegations Common to All Counts

6. Danita Louise Odom (“Odom”) is an individual who owns and operates Simply Living, LLC.
7. Simply Living, LLC (“Simply Living”) is a limited liability company registered in the state of Kansas. Odom is the registered agent of Simply Living.
8. Joseph Dela Pasion (“Dela Pasion”) is an individual who owns and operates Genesis Realty Solutions, LLC (“Genesis”). Dela Pasion is the registered agent of Genesis.
9. Genesis is a limited liability company registered in the state of Kansas.
10. Odom and Dela Pasion are married.

11. Simply Living and Genesis are registered at the same address, P.O. Box 2924, Olathe, Kansas 66063.
12. Neither Odom nor Dela Pasion are licensed to practice law in any state and are not admitted to practice law before this Court.
13. Neither Odom nor Dela Pasion are employed or supervised by an attorney licensed to practice law in any state or before this Court.
14. The Defendants prepared the bankruptcy petition, schedules, and statements for filing in the above-referenced bankruptcy cases.
15. At a deposition taken on January 8, 2013, Odom testified that she is the sole owner and employee of Simply Living.
16. She further testified that the only service provided by Simply Living is preparing bankruptcy documents and that she inputs all the information for the petition, schedules, and statements personally.
17. Odom also stated that she signs all the documents she prepares as petition preparer and lists her social security number on the documents.
18. Simply Living charges clients a fee of \$150.00 to \$200.00 for its petition preparing services.
19. At a deposition on January 8, 2013, Dela Pasion testified that he is the sole owner and employee of Genesis.
20. Among other services, Genesis provides “information gathering” services to bankruptcy clients.

21. Dela Pasion testified that Genesis charges clients a fee of \$200.00 to “gather all the information that’s necessary . . . [to] complete and submit the information to the petition preparer.”
22. Dela Pasion further testified that, after Genesis completes its information-gathering services, it refers the client to Simply Living for preparation of the forms.
23. Generally, and with the exceptions noted on Exhibit B, clients who used the services of both Genesis and Simply Living were charged total fees of \$300-350 for services related to the preparation of their bankruptcy petition, schedules, and statements.

COUNT I – PROVIDING LEGAL ADVICE
UNDER SECTION 110(e) OF THE BANKRUPTCY CODE

24. The Plaintiff reincorporates the allegations set forth in paragraphs one through twenty-three above, as if fully set forth herein.
25. Pursuant to 11 U.S.C. § 110(e)(2)(A), a bankruptcy petition preparer may not offer a potential bankruptcy debtor any legal advice, including any legal advice described in Section 110(e)(B), including advising the debtor about the following: whether to file a bankruptcy petition or which chapter is appropriate; whether the debtor’s debts will be discharged; whether the debtor will be able to retain the debtor’s home, car, or other property after commencing a bankruptcy case; concerning the tax consequences of a bankruptcy case or the dischargeability of tax claims; whether the debtor may or should promise to repay debts to a creditor or enter into a reaffirmation agreement with a creditor; concerning how to characterize the nature of the debtor’s interests in property of the debtor’s debts; or concerning bankruptcy procedures and rights.
26. Upon information and belief, the Defendants violated 11 U.S.C. § 110(e)(2) by offering debtors legal advice about: whether the debtor should file, or was qualified to file,

bankruptcy; specific information about how to complete their petitions, schedules, and statements; exemptions; the bankruptcy discharge; and the retention of property, as set forth more particularly on Exhibit A. The Plaintiff hereby incorporates the allegations as set forth more fully in Exhibit A.

27. The Defendants' violations of 11 U.S.C. § 110(e)(2) also constitute the unauthorized and unlawful practice of law. *See*, 11 U.S.C. § 110(k).
28. Any bankruptcy petition preparer who violates any provision of 11 U.S.C. § 110(e) may be fined not more than \$500 for each violation. 11 U.S.C. § 110(1)(1).
29. Any fines imposed under § 110(l) shall be paid to the United States Trustee. 11 U.S.C. § 110(l)4)(A).

WHEREFORE, the Plaintiff prays for an order and judgment of this Court finding that Odom, Dela Pasion, Simply Living, and Genesis have violated § 110(e)(2) and engaged in the unauthorized practice of law, imposing a fine of \$500 pursuant to § 110(l)(1) for each violation against Odom, Dela Pasion, Simply Living, and Genesis, jointly and severally; enjoining under § 110(j)(1) Odom, Dela Pasion, Simply Living, and Genesis from violating this section in the future; awarding the Plaintiff attorneys' fees and costs incurred in this action pursuant to 11 U.S.C. § 110(j)(4); and for such other relief as is just and proper.

**COUNT II- DISGORGEMENT OF FEES
UNDER SECTION 110(h) OF THE BANKRUPTCY CODE**

30. The Plaintiff reincorporates the allegations set forth in paragraphs one through twenty-nine, as if fully set forth herein.
31. This action is pursuant to 11 U.S.C. § 110(h)(3) to determine the reasonableness of the fees charged by and paid to the Defendants.

32. The fees charged by the Defendants are outlined in Appendix B.
33. Although the Defendants prepared a Form B280, Disclosure of Compensation of Bankruptcy Petition Preparer, for each case they prepared, the form did not disclose the total fees paid by debtors to Simply Living and Genesis.
34. At the § 341 meeting of creditors, the debtors were asked how much money they paid to Simply Living and Genesis. Their responses are listed on Appendix B.
35. The two separate fees that Simply Living and Genesis are charging are actually one service being broken into two fees and are duplicative.
36. The Defendants' failure to disclose their total fees in the Disclosure of Compensation violated 11 U.S.C. § 110(h)(2).
37. The fees charged by and paid to the Defendants are unreasonable and excessive and should be reduced. *In re Mullikin*, 231 B.R. 750 (Bankr. W.D. Mo. 1999)(holding that \$150.00 is the maximum fee that a bankruptcy petition preparer can charge for their services unless the case presents extraordinary circumstances justifying an excess fee).
38. Under § 110(h)(3)(B), all fees charged and received by the Defendants should be disgorged based on their violation of § 110(e).
39. Pursuant to § 110(h)(3), any fees ordered disgorged shall be turned over to the bankruptcy trustee. However, an individual debtor may exempt such funds under § 522. *See* 11 U.S.C. § 110(h)(3)(C).

WHEREFORE, the Plaintiff prays the Court's order and judgment:

- a) requiring the Defendants to provide an accounting of each bankruptcy case in which they provided services to a debtor in this judicial district and an accounting of all funds received in such instances;

- b) disallowing and ordering the immediate turnover of all fees collected by the Defendants in each of the cases identified herein as well as any additional cases identified by the Defendants; and
- c) for such further relief as the Court deems just and proper.

Dated: September 10, 2013

Respectfully submitted,

NANCY J. GARGULA
UNITED STATES TRUSTEE

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Appendix A

Case Number	Case Name	Filings Explained	Exemptions Explained	Discharges Explained	Retaining Property
11-44985-abf7	Greever, Shawn	Yes	Yes		
11-44688-abf7	Jones, Earnest	Yes	Yes		
12-42103-jwv7	Manning, Lorenzo	Yes	Yes		
12-44329-can7	Eller, Steven	Yes		Yes	Yes
13-40151-can7	Jackson, James & Amy	Yes	Yes	Yes	Yes
12-44128-jwv7	Dixon, Porsha	Yes		Yes	Yes
13-42494-can7	Wilburn, Crystal	Yes	Yes	Yes	Yes

Appendix B

Case Number	Case Name	Amount Charged	B280 Stated Amount
13-40151-can7	Jackson, James & Amy	\$500.00	\$150.00
12-44584-drd7	Rucker, Gericka	\$350.00	\$150.00
12-42103-jwv7	Manning, Lorenzo	\$350.00	\$150.00
12-44003-can7	Dillard, Rachelle	\$350.00	\$150.00
12-44329-can7	Eller, Steven	\$350.00	\$150.00
12-44003-can7	Dix, Stacy J.	\$350.00	\$150.00
11-44163-drd7	Keeling, Tanika M.	\$300.00	\$300.00
13-41117-drd7	Williams, Prentiss		\$200.00
11-442717-drd7	Bai, George & Esther	\$600.00	\$600.00
11-44985-abf7	Greever, Shawn	\$300.00	\$300.00
11-44688-abf7	Jones, Earnest	\$300.00	\$300.00
13-50083-can7	Ellison, Randy		\$150.00
13-41286-drd7	Miller, Genia	\$200.00	
13-42877-can7	King, Jennifer		\$200.00
13-42884-drd13	Sherwood, John M.		\$200.00
13-42494-can7	Wilburn, Crystal		\$200.00
13-43039-abf7	Averette, Sherida		\$200.00